

REMARKS

Applicants appreciate the Examiner's indication that the claims are enabled for the treatment of HIV. The claims have been amended accordingly. Support is found in the claims and specification as originally filed.

Claim 12 has been amended to eliminate the "characterized by targeting" language. Support is found in the claim as originally filed.

The dependencies of claims 11 and 19 have been amended in view of the cancellation of claim 1.

The chemical formulas in the specification have been replaced with better copies. Support is found in the application as originally filed.

No new matter is believed to be added. Upon entry of the amendments, claims 11-20 will be active and ready for allowance.

Objection to Disclosure

The Applicants acknowledge the objection to the disclosure. The chemical formulas 1 and 2 are provided to amend the specification such that it is clear. Withdrawal of the objection is kindly requested.

Priority

The Applicants acknowledge the Examiner's objection to their priority claim. The objection is kindly traversed. The specification was amended to include the priority information at the time this application was filed. The Examiner is invited to note the amendment instructions on the Utility Patent Application Transmittal sheet, paragraph 17, submitted with this application on July 16, 2003. A copy is enclosed for convenience. The Examiner is kindly requested to withdraw the objection and grant the Applicants' priority claim.

Rejection Under 35 U.S.C. § 112

The Applicants acknowledge the rejection of claims 10-19 under 35 U.S.C. § 112, 1st paragraph. This rejection is obviated by amendment. Claim 10 has been canceled. New claim 20 and dependent claims recite the treatment of HIV, which was indicated as enabled by the Examiner. The rejection is unsustainable and should be withdrawn.

The Applicants acknowledge the rejection of claim 12 under 35 U.S.C. § 112, 1st paragraph, for written description. This rejection is kindly traversed.

That the upstream and downstream components along the p38 MAPK signaling pathway can be targeted is clearly described in the specification at the bottom of page 3 through the top of page 4 and at page 5, lines 10 ff. See also pages 7 ff and the detailed examples. Given this disclosure there should be no question that at least the embodiment of claim 12 is sufficiently described. This ground of rejection should be withdrawn.

The Applicants acknowledge the rejection of claims 10 and 12 under 35 U.S.C. § 112, 2nd paragraph. This rejection is kindly traversed. Claim 10 is no longer in the case. Claim 12 no longer recites the objectionable “characterized by targeting” language. As such, the Applicants kindly request that this ground of rejection be withdrawn.

Rejection Under 35 U.S.C. § 103

The Applicants acknowledge the rejection of claims 10-19 under 35 U.S.C. § 103(a) over the Bianchi et al. article in view of U.S. Patent No. 6,218,136 (the ‘136 patent). This rejection is kindly traversed. The ‘136 patent does not qualify as prior art against the present application.

The earliest date that the ‘136 patent can qualify as prior art is September 10, 1998, which is after the priority date of the present application, November 15, 1996.

MPEP § 706.02(f)(1). Thus, the '136 patent cannot be used as a reference against the present application, and the obviousness rejection must be withdrawn.

The Applicants note that the international application of the '136 patent, WO 97/34137, copy enclosed, would also not qualify as prior art against the present application. The earliest date the international application can qualify as a reference against the present application is September 18, 1997, which is also after the priority date of the present application, November 15, 1996.

Conclusion

This application is ready for allowance and issue, and an early indication of same is kindly requested. Should the Examiner have any questions regarding this application, or have any suggestions to place it into even better condition for allowance, he is kindly invited to telephone Applicants' undersigned representative at the number that follows.

Respectfully submitted,

DLA PIPER RUDNICK GRAY CARY US LLP



John K. Pike, Ph.D.
Registration No. 41,253

1200 Nineteenth Street, N.W.
Washington, D.C. 20036-2412
Telephone No. (202) 861-3900
Facsimile No. (202) 223-2085